



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/761,537

01/21/2004

David W. Brown

P214419

3298

30662 7590 01/29/2007  
SCHACHT LAW OFFICE, INC.  
SUITE 202  
2801 MERIDIAN STREET  
BELLINGHAM, WA 98225-2412

EXAMINER

CABRERA, ZOILA E

ART UNIT

PAPER NUMBER

2125

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

01/29/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/761,537

Applicant(s)

BROWN ET AL.

Examiner

Zoila E. Cabrera

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 193-210 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 193-208 is/are rejected.
- 7) ☒ Claim(s) 209 and 210 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/13/06</u> | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-192 have been cancelled.

New claims 193-210 are presented for consideration.

#### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 193-210 are rejected under the judicially created doctrine of double patenting over the following U.S. Patents:

6,941,543; 6,513,058; 5,867,385; 6,516,236; and 5,691,897

since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent. A quick review of the listed documents has shown possible obviousness double patenting issues, however, a complete analysis has not been performed due to the number of patents and applications and the undue burden to the examiner to perform these comparisons. The patents and applications have a common assignee, at least one common inventor and common subject matter. The applicant is instructed to provide either terminal disclaimers for the listed documents or provide an explanation as to how the present invention claims specifically read over the claims and coverage of the listed documents.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 193-210 are rejected under 35 U.S.C. 102(e) as being anticipated by **Tanaka (US 2002/0044297 A1)**.

Claim 193 (new) 193. A system for communicating with a motion controller, comprising: a set of motion commands ([0034]-[0042], i.e., for each print command the printer has to move or actuate the corresponding tools to perform a dot drawing, circle

Art Unit: 2125

drawing, linear drawing, etc.); a set of motion operations, where at least one motion operation is associated with at least one motion command ([0006]); a reprogrammable motion controller capable of executing at least one motion command (Fig. 2); a set of selectable software modules ([0035]-[0042], driver commands), where at least one software module is associated with at least one motion controller ([0023], i.e., printer driver is associated with the motion controller of the printer in order to print a circle or dot drawing), and at least two selectable software modules expose a common software interface (Fig. 5); and a software system that is capable of commanding at least one motion controller to perform at least one motion operation using the common software interface exposed by at least one selected software module associated with at least one motion controller (Fig. 2, Graphics Engine corresponds to the software system; [0052], a printer driver 3 converts the printer driver command from the graphics engine 2 into a printer command and supplies this command to a printer 4. Please note that the driver command is selected by the graphics engine).

Claim 194 (new) 194. A system as recited in claim 193 in which a definition of the common software interface is programmatically acquirable (Fig. 5).

Claim 195 (new) 195. A system as recited in claim 193, in which a definition of the common software interface is acquirable from at least one of the selectable software modules in the set of selectable software modules (Fig. 5).

Claim 196 (new) 196. A system as recited in claim 193, further comprising an operating system on which the software module is run (Fig. 2).

Claim 197 (new) 197. A system as recited in claim 196, in which a definition of the common software interface is acquirable from the operating system (Figs. 2, 5).

Claim 198 (new) 198. A system as recited in claim 193, in which a definition of the common software interface is acquirable from a persisted storage medium (Fig. 1).

Claim 199 (new) 199. A system as recited in claim 198, in which the persisted storage medium is a disk file (Fig. 1).

Claim 200 (new) 200. A system as recited in claim 193, in which at least one motion operation causes data to be read from the motion controller ([0035]-[0043]).

Claim 201 (new) 201. A system as recited in claim 193, in which at least one motion operation causes data to be received from the motion controller ([0035]-0042)).

Claim 202 (new) 202. A system as recited in claim 193, in which at least one motion operation causes motion data to be written to the motion controller (Fig. 2).

Claim 203 (new) 203. A system as recited in claim 193, in which at least one motion operation causes an object to move ([0034]-[0042]).

Claim 204 (new) 204. A system as recited in claim 193, in which at least one primitive motion operation causes a motion device to move ([0034]-[0042]).

Claim 205 (new) 205. A system as recited in claim 193, in which the software system further comprises a user interface for selecting at least one selectable software module (Figs. 1, 5).

Claim 206 (new) 206. A system as recited in claim 193, in which the software system further comprises software functionality that programmatically selects at least one selectable software module(Fig. 5).

Claim 207 (new) 207. A system as recited in claim 193, further comprising a selection software module comprising a user interface that allows at least one selectable software module to be selected (Fig. 5).

Claim 208 (new) 208. A system as recited in claim 193, further comprising a selection software module comprising software functionality that programmatically selects at least one selectable software module (Fig. 5).

#### ***Allowable Subject Matter***

4. Claims 209-210 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning communication or earlier communication from the examiner should be directed to Zoila Cabrera, whose telephone number is (571) 272-3738. The examiner can normally be reached on M-F from 8:00 a.m. to 5:30 p.m. EST (every other Friday).

If attempts to reach the examiner by phone fail, the examiner's supervisor, Leo Picard, can be reached on (571) 272-3749. Additionally, the fax phones for Art Unit

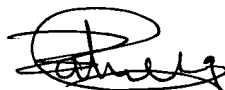
Application/Control Number: 10/761,537

Page 7

Art Unit: 2125

2125 are (571) 273-8300. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist at (703) 305-9600.

Zoila Cabrera  
Primary Examiner  
1/25/07



ZOILA CABRERA  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 2100

01 / 25 / 07